

SUBJECT: Appropriating federal coronavirus relief and recovery funds

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 25 ayes — Bonnen, M. González, Ashby, C. Bell, Capriglione, Dean, Dominguez, Holland, Howard, A. Johnson, Jarvis Johnson, Julie Johnson, Minjarez, Morrison, Raney, Rose, Schaefer, Sherman, Stucky, E. Thompson, Toth, VanDeaver, Walle, Wilson, Wu

0 nays

2 absent — Gates, Zwiener

SENATE VOTE: On final passage, October 8 — 31-0

WITNESSES: For — (*Registered, but did not testify:* John Hryhorchuk, Texas 2036; Mike Meroney, Texas Association of Manufacturers)

Against — (*Registered, but did not testify:* Craig Weisman)

On — (*Registered, but did not testify:* Kelli Merriweather, Commission on State Emergency Communications; Robert Wood, Comptroller of Public Accounts; Celia Cole, Feeding Texas; Tim Bray, Victoria Grady and Trey Wood, Health and Human Services Commission; Maria Elena Ramon, Office of Court Administration/Texas Judicial Council; Blaire Parker, San Antonio Water System; Tom Curran, Texas Comptroller of Public Accounts; Jennifer Buaas, Texas Department of Information Resources; Nick Villalpando, Texas Department of Information Resources; Kirk Cole and Donna Sheppard, Texas Department of State Health Services; Nim Kidd, Texas Division of Emergency Management; Geoff Burkhart, Texas Indigent Defense Commission; John Carlton, Texas State Association of Fire and Emergency Districts; David Lakey, The University of Texas System; Katrina Daniel and Brian Guthrie, TRS)

BACKGROUND: The federal American Rescue Plan Act (ARPA) of 2021 provided funds to state, local, territorial, and tribal governments to be used to respond to the

COVID-19 pandemic. ARPA created the Coronavirus State and Local Fiscal Recovery Funds, which allocated \$15.8 billion to Texas, and the Coronavirus Capital Projects Fund, which provided \$500.5 million to the state. The Texas comptroller created the Coronavirus Relief Fund No. 325 to track federal funds coming to the state in response to the pandemic.

According to the U.S. Treasury Department, recipients of funds may use them to support public health expenditures, address negative economic impacts caused by the public health emergency, replace lost public sector revenue, provide premium pay for essential workers, and invest in water, sewer, and broadband infrastructure. The Treasury Department also has specified some ineligible uses, including for changes that reduce net tax revenues and extraordinary contributions to a pension fund.

The U.S. Treasury Department issued an interim final [rule](#), effective May 17, 2021, on implementing the Coronavirus State and Local Fiscal Recovery Funds. The rule includes details on how the fund can be used, and in July 2021, the department issued a frequently asked questions [page](#) with additional information on eligible uses.

DIGEST:

CSSB 8 would appropriate \$8.6 billion from money received by Texas under the federal Coronavirus State Fiscal Recovery Fund established under the American Rescue Plan Act of 2021 and deposited in the state's Coronavirus Relief Fund No. 325. The appropriations would be made for the two-year period that begins on the bill's effective date.

Unemployment compensation. The bill would appropriate \$7.2 billion to the comptroller for the unemployment compensation fund to pay back outstanding advances received by the state from the federal government, and to return the fund to the statutory floor computed under the Labor Code on October 1, 2021, as reimbursement for payments made as a result of the pandemic. The funds would be for use during the state fiscal year beginning September 1, 2021.

Broadband infrastructure. The bill would appropriate \$500.5 million to Fiscal Programs-Comptroller of Public Accounts to fund broadband

infrastructure as provided for in Government Code sec. 490I.0108. Of these funds, \$75 million could be used only for the Texas broadband pole replacement program.

Grants for crime victims services, compensation, sexual assault services. The bill would appropriate \$160 million to the Trusteed Programs within the Office of the Governor for grants to crime victims. It would be the intent of the Legislature that grants for crime victims during fiscal 2022 and fiscal 2023 equal grants made in fiscal 2021.

The bill also would appropriate to the attorney general's office \$54.8 million to compensate crime victims, and \$52.3 million for deposit in the sexual assault program account.

Food banks. The bill would appropriate \$100 million to the Texas Department of Agriculture to provide supplemental funding to food banks in response to the COVID-19 pandemic.

Cybersecurity. CSSB 8 would appropriate \$200 million to the Department of Information Resources (DIR) for deposit into the Technology Improvement and Modernization Fund No. 187 for the purpose of cybersecurity projects. Before spending this money, DIR would have to receive approval for proposed projects from the Joint Oversight Committee on Investment in Information Technology Improvement and Modernization Projects.

The bill also would increase DIR's capital budget authority by \$200 million.

Permian Basin Behavioral Health Center. The Texas Facilities Commission would receive \$40 million to construct a 100-bed comprehensive behavioral health center to serve the Permian Basin region. After construction, ownership of the building would be transferred to the Permian Basin Behavioral Health Center controlled by the Ector County Hospital District and the Midland County Hospital District. The appropriation would be contingent on an agreement between the Texas

Facilities Commission and the Ector and Midland counties hospital districts guaranteeing the ongoing operations of the comprehensive behavioral health center.

Shortfalls in court fee collections, court case backlog. CSSB 8 would make several appropriations to address matters related to shortfalls in court fee collections.

The following appropriations would be made to address the backlog in court cases:

- \$14.9 million to the judiciary section of the comptroller's office, including to pay for visiting judges and support staff;
- \$10.3 million to the Office of Court Administration, including to pay for information technology;
- \$63.7 million to the Texas Indigent Defense Commission (TIDC) for public defenders and \$13.9 million to be deposited in the Fair Defense Account; and
- \$200,000 to the Office of Capital and Forensic Writs.

The Office of Court Administration would be authorized to use funds that would be appropriated by CSSB 8 for 10 FTEs, and the Office of Capital and Forensic Writs would be authorized to employ one FTE.

The Texas Commission on Law Enforcement would receive \$9.4 million for deposit in the Texas Commission on Law Enforcement Account.

Next generation 9-1-1. The bill would appropriate \$150 million to the Commission on State Emergency Communications for deposit into the Next Generation 9-1-1 Service Fund No. 0195 for the deployment and reliable next-generation 9-1-1 service, including equipment and administration costs. It would be the intent of the Legislature that this money be fully distributed no later than December 31, 2022, and fully spent no later than December 31, 2024.

Customs inspection station. CSSB 8 would appropriate \$15 million to the Texas Department of Transportation for the purpose of funding a

customs inspection station on the South Orient Rail Line in Presidio, Texas.

Intent, transferability, effective date. It would be the intent of the Legislature that appropriations made by CSSB 8 would be one-time appropriations made to address state needs for the two-year period beginning on the effective date of the bill and be used only for purposes authorized by state and federal law and before other methods of finance. It also would be the intent of the Legislature that, if the U.S. Treasury Department or other qualified state or federal authority determined that a purpose for which money was appropriated in CSSB 8 was an improper use of that money, the appropriated money not be spent and instead be retained for later legislative appropriation.

The appropriations in CSSB 8 for crime victims grants, food banks, cybersecurity, a behavioral health center, sexual assault programs, crime victims compensation, short fall in court fees, next generation 9-1-1, and the customs inspection station would be made under federal law provisions that allow money from the CSFRF to be used to provide government services relating to a reduction in state revenue caused by the COVID-19 public health emergency.

Provisions in the fiscal 2022-23 general appropriations act and supplemental appropriations act approved in the 2021 regular session that govern state agencies' discretionary transfer of money from one appropriations item to another would apply to the appropriations made in CSSB 8 to the extent permitted by federal law.

The bill would take immediate effect.

**SUPPORTERS
SAY:**

CSSB 8 would responsibly appropriate money Texas has received from the federal government to address the effects of the COVID-19 pandemic. The pandemic has impacted Texans and state agencies in a wide range of ways, and CSSB 8 would address many of these impacts. The bill would balance the numerous possible uses of the funds with those allowed by the federal government in a strategic way that would help the state in its

ongoing recovery from the pandemic.

Unemployment compensation. CSSB 8 would ensure the solvency of the state's unemployment trust fund and prevent businesses from having to pay higher taxes to replenish the fund. When unemployment claims skyrocketed in the spring of 2020 after many businesses laid off workers due to the pandemic, Texas began paying out much higher benefits. Texas borrowed more than \$6 billion from the federal government to make its legally required payments. The bill would appropriately use federal coronavirus relief funds to pay back the federal loans and replenish the fund to the required statutory floor amount. Many businesses suffered significant economic losses due to COVID-19 and now is not the time to raise unemployment taxes, particularly on smaller businesses, as they work to recover from the disruptions of the past 18 months.

Broadband infrastructure. High-speed internet is essential infrastructure for business, education, healthcare, and beyond. The shift to online work, school, and appointments due to the COVID-19 pandemic has exacerbated the state's already growing "digital divide" or relative lack of affordable and reliable access to internet-based services, especially in certain geographic areas. Broadband improvement would particularly enhance access to important services, such as telehealth, for the elderly and people with disabilities.

Allocating \$500.5 million for broadband development would enable the state to begin meeting the most immediate needs of digitally disadvantaged regions, households, and businesses, and would allow more Texans to benefit from the digital economy while laying a foundation for further investment in digital infrastructure and internet access equity.

Grants for crime victims services, compensation, sexual assault services. Appropriations in CSSB 8 to the governor's office and attorney general's office are needed to address a reduction in federal funds used for crime victims services grants to local governments and non-profits and distributed by the governor's office and for payments made by the attorney general to victims of crime. The bill also would ensure that services for

sexual assault survivors could continue by addressing a cash flow issue, lower than pre-COVID levels of revenue, and other factors that could result in insufficient funds to meet some of the program's obligations to service providers.

Cybersecurity. State agencies currently are working with antiquated computer systems, leaving them more vulnerable to cybersecurity threats, which have significantly increased as government services have moved online. Allocating \$200 million would help meet the significant immediate need for cybersecurity investment and modernization in Texas' public sector.

Food banks. The bill would help reduce hunger for Texans, many of whom were affected by food insecurity during the pandemic, by giving the Texas Department of Agriculture funds for supplemental funding for food banks, some of which would address needs for infrastructure, such as cold storage and other equipment.

Permian Basin Behavioral Health Center. CSSB 8 also would expand access to mental health services in West Texas by funding construction of a behavioral health center to be operated by local hospital districts. The funding will benefit Texans by helping to meet a shortage of this type of bed in the area.

Court case backlog and programs funded by court fees. Several appropriations in CSSB 8 would address needs of the judiciary system to help courts handle a backlog of cases resulting from the COVID-19 pandemic. As cases have become backlogged, court fees that fund many of the services of the judiciary have declined.

CSSB 8 would provide a coordinated response to many components of the backlog with funding for visiting judges, technology, and legal representation for indigent defendants. The Office of Court Administration has reported that without additional funding it could take years to address the backlog. The Texas Commission on Law Enforcement would receive funding in CSSB 8 because its funding also

has been affected by the shortfall in court fee collections.

Next generation 9-1-1. The majority of Texas' current 9-1-1 systems are built on outdated landline telecommunications infrastructure. The Legislature has mandated that all parts of the state be covered by next generation 9-1-1 service by 2025, but transition to such systems will be costly. Allocating \$150 million to the fund created by the Legislature for this purpose would enable the state to begin implementing next-generation 9-1-1 systems that are more reliable and capable of addressing the challenges of providing continued service in pandemic conditions.

Customs inspection station. Allocating \$15 million for the construction of a border inspection facility in Presidio would enable the reopening of the international crossing for commercial rail traffic and facilitate the development of rail infrastructure in the area. State funds are needed because the federal government requires, but will not fund, an inspection facility to allow international freight through Presidio.

CRITICS
SAY:

CSSB 8 would spend nearly half of the American Rescue Plan Act appropriations to shore up the unemployment compensation fund at the expense of other unmet state needs, such as housing, child care, and infrastructure. There are other alternatives for replenishing the fund, including using the Economic Stabilization Fund or financing the debt with bonds that could be paid back by employers over several tax years instead of one. The bill should be structured in a way that protects small businesses from higher unemployment taxes while requiring major employers, including some whose revenues greatly increased during the pandemic, to pay higher taxes to replenish the fund.

OTHER
CRITICS
SAY:

While CSSB 8 would provide funding for several important items necessary for state agencies to respond to the impact of the COVID-19 pandemic, other needs should be considered, including aid to the tourism, travel, and hospitality industry, children's advocacy centers, salaries for public safety agency employees, and support for veterans homes and historical sites.

NOTES: According to the Legislative Budget Board, the bill would have no impact to general revenue related funds through fiscal 2023. However, there would be a cost of \$8.6 billion to Coronavirus Relief Fund No. 325.